

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

JUL 19 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 99-199
Table of Allotments,)	RM-9564
FM Broadcast Stations.)	
(Cordell, Hawkinsville and Montezuma,)	
Georgia)		

**COMMENTS & COUNTERPROPOSAL
OF
LACOM COMMUNICATIONS, INC.**

Comes now **LACOM COMMUNICATIONS, INC.** ("Lacom"), by counsel, and pursuant to the *Notice of Proposed Rule Making (DA 99-199, released May 28, 1999)* (the "*NPRM*"), and hereby respectfully submits these, its Comments & Counterproposal in the above-captioned Rulemaking proceeding. For its Comments and Counterproposal, Lacom submits the following:

Background

1. According to the NPRM, Metro Com Corp., ("MCC"), the licensee of FM Broadcast Station WKKN, Cordele, Georgia, jointly with Broadcast Equities Corp. ("BEC"), permittee of a FM Broadcast Station at Montezuma, Georgia, and Tri-County Broadcasting Company, ("TCBC"), licensee of FM Broadcast Station WQSY, Hawkinsville, Georgia, (herein jointly referenced as "petitioners"), requested (1) the substitute allotment of Channel 236C3 for Channel 252A at Cordele; (2) the substitute allotment of Channel 280C3 for Channel 236A at Montezuma; (3) the substitute allotment of Channel 252C3 for Channel 280C3 at Hawkinsville; and (4) a Commission order

No. of Copies rec'd 04
List ABCDE

which requires the filing of applications to modify the respective station licenses and construction permit to specify the new channel allotment configuration. This would result, apparently, in upgrade of two of the three facilities and an increase in the service areas and the populations served within those areas. The third facility would suffer a net loss of service to almost 4,000 persons. The NPRM indicates that the requested allotments to non-adjacent, higher-class channels can be made because it constitutes an incompatible channel swap. The Commission has determined that no other Channel C3 facilities can be assigned to the two upgrading communities.

2. Lacom is a interested party in this proceeding, inasmuch as it is the licensee of FM Broadcast Station WELT, Swainsboro, Georgia, currently operating on FM Channel 251A, whose counterproposal, set forth hereinbelow, would be precluded by the channel configuration proposed in the NPRM.

Counterproposal

3. Lacom submits that the community of East Dublin, Georgia is more deserving of a first local aural FM transmission service than the communities of Cordele, Georgia and Montezuma, Georgia are of receiving upgraded FM service from their existing facilities. Accordingly, Lacom requests that Channel 251C3 be allotted to the community of East Dublin, Georgia; that its license for FM Broadcast Station WELT at Swainsboro, Georgia be modified to specify operation of on Channel 251C3 at East Dublin; and that Channel 251A be deleted at Swainsboro, Georgia to accommodate the allotment of Channel 251C3 at East Dublin. This will, as is more fully set forth in Exhibit 1, attached hereto, preclude the Hawkinsville channel change, from Channel 280C3 to Channel 252C3, as was proposed in the NPRM.

4. The community of East Dublin, Georgia is qualified and deserving of the counterproposed allotment due to the following factors:

(a) East Dublin does not have any local aural broadcast transmission service, nor does it have any radio channels currently allotted to the community. On the other hand, Cordele, Hawkinsville, and Montezuma, Georgia each has its own commercial FM radio station¹, and in the cases of Hawkinsville and Montezuma, a commercial AM radio station licensed to each community.

(b) While the allotment of FM Channel 251C3 to East Dublin will require the deletion of FM Channel 251A at Swainsboro, Georgia, this is of little consequence, inasmuch as Swainsboro will be left with three other local transmission services, including another commercial FM service. These include WJAT(AM), 800 kHz; WXRS(AM), 1590 kHz; and WXRS(FM), Channel 263A.

(b) East Dublin's population, according to the 1990 census, was 2,524 persons. However, according to the Georgia Institute of Technology State Data and Research Center (www.sdrcent.pp.gatech.edu) the population was 2,709 persons as of July 1, 1998. The Georgia Department of Industry, trade and tourism states that the population was 3,209 as of that date. East Dublin is an incorporated city, with a City Hall, and its own police department, and provides fire, water and sewer services. It has a mayor and council form of government, with five members of the city council. It has a city zoning ordinance and its own Post Office. Schools are provided by the county, but there are approximately 85 commercial businesses in East Dublin which are identified with the city specifically. Interstate 16 passes nearby, and has an East Dublin exit. Railroad service is provided at East Dublin by Norfolk Southern Rail and CSX.

5. Generally, if a community is incorporated or is listed in the U.S. Census, the community qualifies for FCC allotment purposes. *See generally, Revision of FM*

¹ Cordele has an educational FM facility assigned to it at 90.3 MHz, though it is apparently not on the air at the present time. Hawkinsville also has an AM Station assigned to it, WCEH(AM), 610 kHz, licensed to Tri-County. Montezuma has an AM station assigned to it, WMNZ(AM), 1050 kHz, licensed to Macon County Broadcasting Co.

Assignment Policies and Procedures, 90 FCC 2d 88, 101 (1992); *Gretna, Marianna, Quincy and Tallahassee, Florida*, 6 FCC Rcd 633 (1991). The identity of large number of businesses with the town name and the fact that many businesses use the town name in their business name, indicates a connection between the town's business, social and political cultures -- another indicia of community status. See, *Gretna, etc., supra*.

6. Where, as here, different communities are competing for the allocation of one or more mutually-exclusive configurations for new radio channel allotments, the Commission must choose between the conflicting proposals and base its decision on the following allotment criteria as set forth in *Revision of FM Policies and Procedures, supra*, in descending order of importance:

- (1) first full-time aural service;
- (2) second full-time aural service;
- (3) first local service; and
- (4) other public interest matters.

Based upon the above criteria, the allotment of a first local aural transmission service to the community of East Dublin is clearly to be preferred over the upgrade of the channel allotments of the existing services of the communities of Cordele and Montezuma, Georgia (with the concomitant loss area relative to the service to be provided by the Hawkinsville, Georgia station, currently on Channel 280C3). The proposal contained in the NPRM does not provide any first or second full-time aural service, nor would it create any first local service to any of the three communities affected. Therefore, the upgrade proposal of the NPRM is included in priority 4. On the other hand, the instant counterproposal is squarely classified as priority 3, and therefore is to be preferred in this

case.

7. From a technical standpoint, the allotment of Channel 251C3 to East Dublin, coupled with the deletion of Channel 251A at Swainsboro, fully complies with all applicable FCC Rules and Regulations. Attached hereto as **Exhibit No. 1** is a Technical Statement prepared by Jefferson G. Brock of Graham Brock, Inc., wherein it is demonstrated that Channel 251C3 can be allotted to East Dublin at reference coordinates North Latitude 32-33-28, and West Longitude 82-42-10. A site restriction 17 km east of the city is required to avoid shortspacing. The proposal is mutually exclusive with the channel changes proposed at Hawkinsville, Georgia, and with the existing facilities of WELT, licensed to Lacom, at Swainsboro.

Statement of Interest

8. Lacom hereby states that, in the event Channel 251C3 is allotted to East Dublin, Georgia, it will immediately thereafter file an FCC Form 301 Application with the Commission to modify the Construction Permit for WELT to specify operation on Channel 251C3 at East Dublin, Georgia instead of Channel 251A at Swainsboro.

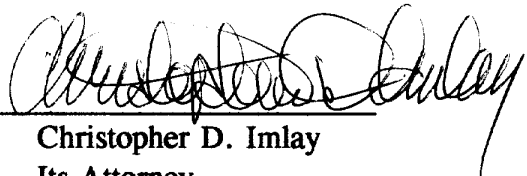
Conclusion

WHEREFORE, the above premises considered, Lacom respectfully requests that its Comments and Counterproposal be ACCEPTED and that the Commission AMEND §73.202 of the Commission's Rules, as follows:

<u>City & State</u>	<u>Existing</u>	<u>Proposed</u>
Swainsboro, GA	251A, 263A	263A
East Dublin, GA	None	251C3

Respectfully submitted,

LACOM COMMUNICATIONS, INC.

By: 
Christopher D. Imlay
Its Attorney

Booth, Freret, Imlay & Tepper, P.C.
5101 Wisconsin Avenue, N.W.
Suite 307
Washington, D.C. 20016
(202) 686-9600

July 19, 1999

Exhibit No. 1

(Technical Statement of Jefferson G. Brock)

COUNTERPROPOSAL
MM DOCKET #99-199
LACOM COMMUNICATIONS, INC.
ALLOT CHANNEL 251C3
EAST DUBLIN, GEORGIA
July 1999

TECHNICAL STATEMENT

1. This technical statement and attached exhibits were prepared on behalf of Lacom Communications, Inc. ("LCI"), licensee of station WELT, Channel 251A, Swainsboro, Georgia. LCI herein submits its comments and counterproposal to the request contained in MM Docket #99-199, which proposes, among other changes, the allotment of Channel 252C3 for Channel 280C3 at Hawkinsville, Georgia. LCI requestes, in lieu of the Hawkinsville proposal, that Channel 251C3 be substituted for Channel 251A at Swainsboro and that the channel be realotted to East Dublin, Georgia, as that community's first locally licensed service.¹

DISCUSSION

2. The city of East Dublin, Georgia, is located in the central portion of Laurens County, Georgia. East Dublin, incorporated in 1952, has a population of 2,524 persons.² East Dublin presently has no licensed AM or FM facilities. Therefore, the allocation of Channel 251C3 would provide the community with its first local transmission service. East Dublin is governed by a Mayor and a five member Town Council. The city of East Dublin provides its own police, fire, water, sewer and sanitation services.

-
- 1) It is also noted that the proposed allotment of Channel 251C3 to East Dublin is mutually exclusive with the proposed allotment of Channel 253A to Soperton, Georgia, as proposed in MM Docket #99-259. The deadline for comments in Docket #99-259 is September 7, 1999.
- 2) 1990 Census data, U.S. Census of Georgia 1990 CPH-2-12.

REQUEST

3. Channel 251C3 can be allotted to East Dublin, Georgia, with a site restriction of 17.0 kilometers east of the community to avoid shortspacing WIBB-FM, Channel 250C3, Fort Valley, Georgia. Channel 251C3 can be allotted at geographic coordinates North Latitude 32° 33' 28" and West Longitude 82° 42' 10". Exhibit #1 is a map visually demonstrating where a transmitter site for Channel 251C3 can be located to provide the requisite city grade coverage to East Dublin. Exhibit #2 is a §73.207 spacing study which shows that, from the proposed allocation site, Channel 251C3 meets the spacing requirements to all existing, applied for or proposed facilities.³ From the reference site, a 3.16 mV/m contour will be placed over 100% of the city of East Dublin. The proposed Channel 251C3 allotment to East Dublin is mutually exclusive with the presently licensed facilities of WELT on Channel 251A at Swainsboro, Georgia. The re-allotment of the channel will not deprive Swainsboro of its only local service, since co-owned stations WXRS-FM, Channel 263A; WJAT, 800 kHz, and WXRS, 1590 kHz will all remain licensed to Swainsboro. Further, East Dublin is not located in or near any urbanized areas as defined by the 1990 U.S. Census.

4. Therefore, LCI requests the following amendment to §73.202(b) of the rules:

East Dublin, Georgia

Present
None

Proposed
251C3

3) With the exception of the proposed allotment of Channel 252C3 to Hawkinsville, Georgia (as requested in MM Docket #99-199) and Channel 253A at Soperton, Georgia (as requested in MM Docket #99-259).

Swainsboro, Georgia

**Present
251A, 263A**

**Proposed
263A⁴**

PUBLIC INTEREST

5. The allotment of Channel 251C3 to East Dublin, Georgia, will provide the first local service to the community. A maximum Class C3 facility will deliver a 1.0 mV/m signal to 68,509 persons in 4,697.9 square kilometers. This represents a net increase of 43,007 persons over the presently licensed facilities on WELT.⁵ When Channel 251C3 is allocated to East Dublin, LCI will file, on a timely basis, an application for a construction permit, seeking authority to construct an improved WELT at East Dublin, Georgia.

6. The foregoing Technical Statement was prepared on behalf of Lacom Communications, Inc., by Graham Brock, Inc., its Technical Consultant. All information relating to the FM allocations and facilities was extracted from the NTIA database as updated on July 16, 1999. We assume no liability for errors or omissions in that database which may be adverse to the requests contained herein.

-
- 4) In addition to AM stations WJAT, 800 kHz, and WXRS, 1590 kHz, both are licensed to Swainsboro.
- 5) As presently authorized, WELT provides 1.0 mV/m service to 20,284 persons. Of these persons, 15,066 persons will also theoretically receive service from the improved WELT on Channel 251C3 at East Dublin. The small loss area contains 5,218 persons already receiving more than two other services. Therefore, no white or grey area is created as a result of the proposed re-allotment.

EXHIBIT #2

REFERENCE	CLASS C3	DISPLAY DATES
32 33 28 N		DATA 07-15-99
82 42 10 W	Current rules spacings	SEARCH 07-19-99
-----	CHANNEL 251 - 98.1 MHz	-----

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WELT	251A	Swainsboro	GA	84.4	32.18	142.0	-109.82
LI CN	32 35 08	82 21 42	3.000 kW	87M	20.0	88.3	
	Lacom Communications, Inc.				BMLH-890228KD		
AD252	252C3	Hawkinsville	GA	246.5	76.75	99.0	-22.25
AD	32 16 51	83 27 02	0.000 kW	OM	47.7	61.5	
	Metro Comm; B/C Equities; & T				RM-9564		
AD253	253A	Soperton	GA	142.9	31.98	42.0	-10.02
AD	32 19 41	82 29 50	0.000 kW	OM	19.9	26.1	
	John Morgan Dowdy.						
WIBBFM	250C3	Fort Valley	GA	271.1	99.04	99.0	0.04
LI CN	32 34 12	83 45 26	10.500 kW	152M	61.5	61.5	
	Taylor Communications Corporation				BMLH-990112KB		
WPEK	251C	Seneca	SC	353.7	237.68	237.0	0.68
LI CN	34 41 15	82 59 13	100.000 kW	304M	147.7	147.3	
	Alpeak Broadcasting Corporation				BLH-980629KB		
WTCQ	249A	Vidalia	GA	146.3	45.04	42.0	3.04
LI CN	32 13 12	82 26 13	6.000 kW	88M	28.0	26.1	
	Vidalia Communications, Corp.				BMLH-900814KD		
WUFFFM	248A	Eastman	GA	232.9	60.94	42.0	18.94
LI CN	32 13 35	83 13 10	2.000 kW	113M	37.9	26.1	
	WUFF Radio				BMLH-930527KD		
WGCO	252C1	Midway	GA	129.4	164.47	144.0	20.47
LI CN	31 36 45	81 21 37	100.000 kW	299M	102.2	89.5	
	Intermart Broadcasting Georgia				BLH-900104KA		
WIIZ	250C2	Blackville	SC	62.9	137.80	117.0	20.80
LI CN	33 06 52	81 23 13	50.000 kW	132M	85.6	72.7	
	Dallas M. Tarkenton				BLH-960502KB		
WKKN	252A	Cordele	GA	235.5	122.55	89.0	33.55
LI ZCN	31 55 45	83 46 20	4.200 kW	85M	76.2	55.3	
	Metro Com Corp.				BLH-981008KD		

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Lacom Communications, Inc, licensee of Radio Station WELT, to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 19th day of July, 1999.



Jefferson G. Brock
Affiant

Sworn to and subscribed before me
this the 19th day of July, 1999



Notary Public, State of Georgia
My Commission Expires: April 20, 2002

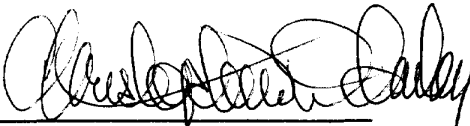


CERTIFICATE OF SERVICE

I, Christopher D. Imlay, hereby certify that on this 19th day of July, 1999, I caused to be served a copy of the foregoing "**Comments & Counterproposal of Lacom, Inc.**" first-class, postage-prepaid, on the following:

Chief, Allocations Branch
Mass Media Bureau
Federal Communications Commission
445-12th Street, S.W.
Washington, D.C. 20554

Dan J. Alpert, Esquire
2120 N. 21st Road
Arlington, VA 22201
(Counsel for Petitioner)



Christopher D. Imlay